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WESTFIELD INSURANCE COMPANY
CINCINNATI

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI

Allstate Ins. Co., et al.,

Plaintiffs,

v.

Yung K. Yu, et al.,

Defendants.

Case No. C-1-00-880

District Judge Herman J. Weber

PLAINTIFFS HUGH AND
MARY MARTIN'S
MOTION TO CONTINUE STAY

Come now Plaintiffs Hugh and Mary Martin, through the undersigned counsel, and move for a continued stay of the proceedings in this case until the Ohio Supreme Court issues its decision on three motions for reconsideration of the decision in *Westfield Insurance Company v. Galatis* (2003), 100 Ohio St.3d 216, 797 N.E.2d 1256. The basis for this motion is explained in the attached memorandum.

Respectfully submitted:



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MEMORANDUM

On or about November 10, 2003, Defendant Wausau Business Insurance Company ("Wausau") filed a Motion to Reinstate Case, and a Renewed Motion for Summary Judgment. On or about November 19, 2003, Wausau again filed a Renewed Motion for Summary Judgment. These motions are based on the recent Ohio Supreme Court decisions in *Westfield Insurance Company v. Galatis* (2003), 100 Ohio St.3d 216, 797 N.E.2d 1256 and *Allen v. Johnson*, which relies on *Galatis*.

The undersigned counsel has confirmed with the Ohio Supreme Court that three motions for reconsideration of the *Galatis* decision have been filed and are currently pending before the Ohio Supreme Court. Before granting Wausau's motions, this Court should await the Ohio Supreme Court's decision on the motions to reconsider. There were three separate opinions written in the *Galatis* case, and it is possible that the Ohio Supreme Court's ruling will change.

For all of the foregoing reasons, the Martins move this Court to continue the stay of proceedings in this case until after the Ohio Supreme Court's decision on the motions to reconsider of the *Galatis* decision.

Respectfully submitted,

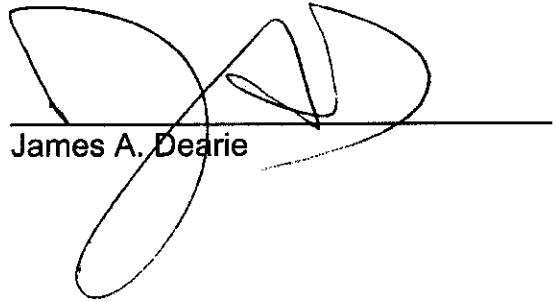
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Attorneys for the Plaintiffs

Certificate of Service

I hereby certify that a true copy of the foregoing has been served upon Brian Wildermuth, Attorney for Defendant Wausau Business Insurance Company, 2305 Far Hills Avenue, Dayton, Ohio 45419, and Timothy P. Heather, Attorney for Allstate Insurance Company, at Benjamin, Yocum & Heather, LLC, 312 Elm St., Suite 1850, Cincinnati, Ohio 45202, and Michael Thomas, Attorney for Amicus Curiae, Ohio Academy of Trial Lawyers, 5785 Far Hills Avenue, Dayton, Ohio 45429, by ordinary U.S. Mail this 10th day of December, 2003.



James A. Dearie